

13-83

Introduce: 7-15-13

Change of Zone 07060A

ORDINANCE NO. _____

1 AN ORDINANCE amending the Wilderness Heights Planned Unit Development to
2 rezone approximately 1.13 acres of the below described property from B-2 Planned
3 Neighborhood Business District to R-3 Residential District and to remove said R-3 zoned land
4 from the Planned Unit Development Overlay District, and to allow motor vehicle sales and
5 service as a permitted use on property generally located on the southeast corner of South 40th
6 Street and Yankee Hill Road and legally described as a portion of Lots 49 and 50, located in the
7 Northwest Quarter of Section 29, Township 9 North, Range 7 East of the 6th P.M., Lancaster
8 County, Nebraska, and more particularly described by metes and bounds in Attachment "A"
9 attached hereto.

10 BE IT ORDAINED by the City Council of the City of Lincoln, Nebraska:

11 Section 1. That the "Lincoln Zoning District Maps" attached to and made a part of Title
12 27 of the Lincoln Municipal Code be and they are hereby amended by changing the boundaries
13 of the districts established and shown on said Maps as follows:

14 A tract of land composed of a portion of Lot 49, I.T., located in the
15 Northwest Quarter of Section 29, Township 9 North, Range 7 East of the
16 6th P.M., Lancaster County, Nebraska, and more particularly described
17 on Attachment "B" attached hereto;

1 be and it hereby is (1) transferred from the B-2 Planned Neighborhood Business District to the
2 R-3 Residential District and is hereby made a part of the R-3 Residential District; (2) removed
3 from the Wilderness Heights Planned Unit Development District; and (3) governed by all the
4 provisions and regulations pertaining to the R-3 Residential District.

5 Section 2. That the amended Wilderness Heights Planned Unit Development submitted
6 by West Dodge Place, LLC with the consent of the owner Lincoln Federal Bancorp, Inc., as set
7 forth in its application, site plan and notes, to allow 60,000 square feet of motor vehicle sales
8 and service as a permitted use instead of the 46,000 square feet of restaurant/office space
9 which includes several drive through restaurants and a bank on property designated as Lots 1,
10 2 and 3, Block 1 on the Site Plan, be and the same is hereby approved upon condition that the
11 construction and operation of said Planned Unit Development be in substantial compliance with
12 said application, site plan, and the following express terms, conditions and requirements:

13 1. Before receiving building permits:

14 a. Lincoln Federal Bancorp, Inc., hereinafter referred to as the "Permittee,"
15 shall cause to be prepared and submitted to the Planning Department a revised and
16 reproducible final plot plan including five copies with all required revisions and documents as
17 listed below:

- 18 i. All conditions required by the approval of CZ07060 must be met.
- 19 ii. Revise the site plan so that the road improvements match the exhibit
20 provided with the amended annexation agreement.
- 21 iii. Sheet 1 of 5: A Conservation Easement has been approved
22 (instrument # 2008048213). Revise notes accordingly (e.g. notes 7, 8,
23 9, etc).
- 24 iv. Sheet 1 of 5, note 8: revise to provide the following or similar
25 language: Development shall be restricted within the conservation
26 easement area per the terms and conditions of the Conservation
27 Easement. Development shall also be restricted by New Growth Area
28 Standards per the City floodplain standards. {Note: there is no longer a
29 floodprone area as this corridor has been adopted by FEMA as a
30 floodplain area}

- 1 v. Sheet 1 of 5, Note 9: Add to the last sentence that there will be no
2 utilities installed without prior approval by the Public Works and
3 Utilities Director per the Conservation Easement.
- 4 vi. Sheet 1 of 5: Have same line type and weight for the Conservation
5 Easement boundary.
- 6 vii. Need to show lowest minimum floor elevations to all lots adjacent to
7 the Floodplain.
- 8 viii. Show floodplain boundary and provide or reference past study. Need
9 to demonstrate that the impacts of Hohensee Drive and the rest of the
10 development meet Drainage Criteria Manual per the New Growth Area
11 Standards.
- 12 ix. Provide specific information on culvert crossings (Hohensee, S. 40th)
13 to show that they meet Drainage Criteria Manual for culverts.
- 14 x. Make changes per the Markups on the 4/18/2013 Site Plan and Cover
15 Sheet Exhibits in the Resubmittal Request Folder in ProjectDox to the
16 satisfaction of the Planning Department.
- 17 xi. Show easements, in the Resubmittal Request Folder, requested by
18 LES on 4/26/2013.
- 19 xii. Make changes per the attached Public Works Engineering Services
20 comments.
- 21 xiii. Revise site specific note to state "Architectural Design Standards for
22 Block 1 shall be submitted to the Planning Director for approval prior to
23 Building Permit."
- 24 b. The Permittee shall provide to the Planning Department verification from the
25 Register of Deeds that the letter of acceptance as required by the approval
26 of the planned unit development has been recorded.
- 27 c. The construction plans must substantially comply with the approved plans.
- 28 2. Before occupying the dwelling units and commercial buildings, all development
29 and construction must substantially comply with the approved plans.
- 30 3. All privately-owned improvements shall be permanently maintained by the
31 Permittee or an appropriately established owners association approved by the City Attorney.

1 4. The site plan accompanying this planned unit development shall be the basis for
2 all interpretations of setbacks, yards, locations of buildings, location of parking and circulation
3 elements, and similar matters.

4 5. The terms, conditions, and requirements of this ordinance shall run with the land
5 and be binding upon the Permittee, its successors and assigns.

6 6. The Permittee shall sign and return the letter of acceptance to the City Clerk.
7 This step should be completed within 60 days following the approval of the change of zone,
8 provided, however, said 60-day period may be extended up to six months by administrative
9 amendment. The City Clerk shall file a copy of the ordinance approving the change of zone
10 and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in
11 advance by the Permittee. Building permits will not be issued unless the letter of acceptance
12 has been filed.

13 7. The site plan as approved with this ordinance voids and supersedes all
14 previously approved site plans, however the terms and conditions of all prior ordinances
15 approving the Planned Unit Development remain in force and effect except as specifically
16 amended by this ordinance.

17 Section 3. Pursuant to Article VII, Section 7 of the City Charter, this ordinance shall be
18 posted on the official bulletin board of the City, located on the wall across from the City Clerk's
19 office at 555 S. 10th Street, in lieu of and in place of newspaper publication with notice of
20 passage and such posting to be given by publication one time in the official newspaper by the
21 City Clerk. This ordinance shall take effect and be in force from and after its passage and
22 publication as herein and in the City Charter provided.

Introduced by:

Approved as to Form & Legality:

Rod Cooper
City Attorney

Approved this ____ day of _____, 2013:

Mayor

LEGAL DESCRIPTION

A LEGAL DESCRIPTION OF A PORTION OF LOTS 49 AND 50 LOCATED IN THE NORTHWEST QUARTER (NW1/4) OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST, OF THE 6TH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA. SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST; THENCE N89°51'08"E A DISTANCE OF 87.89 FEET TO A POINT ON THE CENTERLINE OF YANKEE HILL ROAD; THENCE S00°08'52"E A DISTANCE OF 60.00 FEET TO THE SOUTH RIGHT OF WAY OF YANKEE HILL ROAD AND THE POINT OF BEGINNING; THENCE N89°51'08"E ON SAID RIGHT OF WAY A DISTANCE OF 536.05 FEET; THENCE N00°08'52"W ON SAID RIGHT OF WAY A DISTANCE OF 10.00 FEET; THENCE N89°51'08"E ON SAID RIGHT OF WAY A DISTANCE OF 668.85 FEET; THENCE S00°05'38"W A DISTANCE OF 160.39 FEET; THENCE N89°54'22"W A DISTANCE OF 108.00 FEET; THENCE ON A CURVE TO THE LEFT HAVING A RADIUS OF 180.00 FEET, AN ARC LENGTH OF 125.66 FEET, HAVING A CHORD BEARING OF S70°05'40"W AND A CHORD DISTANCE OF 123.12 FEET; THENCE N37°40'35"W A DISTANCE OF 124.08 FEET; THENCE ON A CURVE TO THE LEFT HAVING A RADIUS OF 143.00 FEET, AN ARC LENGTH OF 2.14 FEET, HAVING A CHORD BEARING OF N38°06'19"W AND A CHORD DISTANCE OF 2.14 FEET; THENCE S39°29'21"W A DISTANCE OF 245.58 FEET; THENCE S39°26'16"W A DISTANCE OF 69.64 FEET; THENCE S35°25'05"W A DISTANCE OF 77.35 FEET; THENCE S28°14'47"W A DISTANCE OF 82.67 FEET; THENCE S22°07'14"W A DISTANCE OF 77.18 FEET; THENCE S15°38'59"W A DISTANCE OF 77.89 FEET; THENCE S13°49'53"W A DISTANCE OF 263.00 FEET; THENCE S19°12'13"W A DISTANCE OF 37.40 FEET; THENCE S33°50'05"W A DISTANCE OF 43.99 FEET; THENCE S35°26'05"W A DISTANCE OF 26.36 FEET; THENCE S17°53'32"E A DISTANCE OF 68.75 FEET; THENCE ON A CURVE TO THE RIGHT HAVING A RADIUS OF 683.00 FEET, AN ARC LENGTH OF 46.21 FEET, HAVING A CHORD BEARING OF S54°06'59"E AND A CHORD DISTANCE OF 46.20 FEET; THENCE S52°10'41"E A DISTANCE OF 79.08 FEET; THENCE S37°48'18"W A DISTANCE OF 66.00 FEET; THENCE S52°10'41"E A DISTANCE OF 232.62 FEET; THENCE S32°02'07"W A DISTANCE OF 98.37 FEET; THENCE S25°08'50"W A DISTANCE OF 78.97 FEET; THENCE S20°15'35"W A DISTANCE OF 69.93 FEET; THENCE S15°11'46"W A DISTANCE OF 76.93 FEET; THENCE S09°47'37"W A DISTANCE OF 69.93 FEET; THENCE S04°43'47"W A DISTANCE OF 76.93 FEET; THENCE S00°40'23"E A DISTANCE OF 69.93 FEET; THENCE S05°44'12"E A DISTANCE OF 76.93 FEET; THENCE S11°27'18"E A DISTANCE OF 69.92 FEET; THENCE S15°23'46"E A DISTANCE OF 76.92 FEET; THENCE S13°12'36"E A DISTANCE OF 58.29 FEET; THENCE S07°23'08"E A DISTANCE OF 59.53 FEET; THENCE S°01'02'20"E A DISTANCE OF 61.37 FEET; THENCE S00°00'30"W A DISTANCE OF 370.06 FEET TO THE SOUTH LINE OF THE NW 1/4 OF SAID SECTION 29; THENCE S89°59'32"W ON THE SOUTH LINE OF THE NW 1/4 OF SAID SECTION 29 A DISTANCE OF 671.26 FEET TO THE EAST RIGHT OF WAY OF SOUTH 40TH STREET; THENCE N00°02'40"W ON THE EAST RIGHT OF WAY OF SOUTH 40TH STREET, A DISTANCE OF 884.86 FEET; THENCE N08°24'19"E ON SAID RIGHT OF WAY, A DISTANCE OF 102.08 FEET; THENCE N00°02'40"W ON SAID RIGHT OF WAY, A DISTANCE OF 400.00 FEET; THENCE N09°00'51"W ON SAID RIGHT OF WAY, A DISTANCE OF 32.07 FEET; THENCE N00°02'40"W ON SAID RIGHT OF WAY, A DISTANCE OF 1130.66 FEET; THENCE N45°15'17"E ON SAID RIGHT OF WAY A DISTANCE OF 39.63 FEET TO THE SOUTH RIGHT OF WAY OF YANKEE HILL ROAD AND THE POINT OF BEGINNING. SAID TRACT CONTAINS 1,742,219.97 SQUARE FEET OR 40.00 ACRES, SUBJECT TO ALL EASEMENTS, RESTRICTIONS, AND RESERVATIONS OF RECORD.

**LEGAL DESCRIPTION
CHANGE OF ZONE**

A TRACT OF LAND COMPOSED OF A PORTION OF LOT 49 I.T., LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST; THENCE EASTERLY ON THE NORTH LINE OF SAID NORTHWEST QUARTER ON AN ASSUMED BEARING OF N89°51'06"E, A DISTANCE OF 87.90' TO A POINT; THENCE S00°08'54"E, A DISTANCE OF 60.00' TO THE NORTHWEST CORNER OF LOT 49 I.T., SAID POINT BEING ON THE SOUTH RIGHT-OF-WAY LINE OF YANKEE HILL ROAD; THENCE N89°51'06"E, ON THE NORTH LINE OF SAID LOT 49 I.T., SAID LINE BEING THE SOUTH LINE OF SAID RIGHT-OF-WAY, SAID LINE BEING 60.00' SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 536.32' TO A POINT; THENCE N00°08'54"W, ON A WEST LINE OF SAID LOT 49 I.T., SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 10.00' TO A POINT 50.00' SOUTH OF THE NORTH LINE OF SAID NORTHWEST QUARTER; THENCE N89°51'06"E, ON A NORTH LINE OF SAID LOT 49 I.T., SAID LINE BEING A SOUTH LINE OF SAID RIGHT-OF-WAY, SAID LINE BEING 50.00' SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 367.29' TO **THE TRUE POINT OF BEGINNING**; THENCE CONTINUING N89°51'06"E ALONG SAID LINE, A DISTANCE OF 301.45' TO A POINT; THENCE S00°05'38"W, A DISTANCE OF 160.41' TO A POINT; THENCE N89°54'22"W, A DISTANCE OF 108.00' TO A POINT OF CURVATURE OF A NON TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 39°59'51", A RADIUS OF 180.00', AN ARC LENGTH OF 125.66', A CHORD LENGTH OF 123.12', A TANGENT LENGTH OF 65.51', AND A CHORD BEARING OF S70°05'40"W TO A POINT; THENCE N37°40'35"W, A DISTANCE OF 124.08' TO A POINT OF CURVATURE OF A NON TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 00°51'27", A RADIUS OF 143.00', AN ARC LENGTH OF 2.14', A CHORD LENGTH OF 2.14', A TANGENT LENGTH OF 1.07', AND A CHORD BEARING OF N38°06'19"W TO A POINT; THENCE N00°08'54"W, A DISTANCE OF 101.48' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA 49,053.58 SQUARE FEET OR 1.13 ACRES, MORE OR LESS.